



STATE OF NEW JERSEY

In the Matter of Isaiah Mateo, Police
Officer (S9999U), Hoboken

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

CSC Docket No. 2019-2566

List Removal Appeal

ISSUED: AUGUST 5, 2019 (SLK)

Isaiah Mateo, represented by Catherine M. Elston, Esq., appeals his removal from the eligible list for Police Officer (S9999U), Hoboken on the basis that he falsified his application.

The appellant took the open competitive examination for Police Officer (S9999U), which had an August 31, 2016 closing date, achieved a passing score, and was ranked on the subsequent eligible list. In seeking his removal, the appointing authority indicated that the appellant falsified his application. Specifically, a review of the background report indicates that the appellant did not disclose a December 18, 2015 safety glass requirement motor vehicle violation and August 31, 2018 motor vehicle violations for improper use of a cellular phone and failure to wear seatbelt. Additionally, he failed to disclose conduct violations that he received while attending college including an October 2, 2015 violation of campus housing regulations (prohibited appliance), a November 24, 2015 underage alcohol; violation of campus housing regulations, a February 7, 2016 alcohol general; guest policy violation, a March 10, 2016 damage/vandalism (door lock) violation, a May 12, 2016 improper check out violation, a September 4, 2016 alcohol general; underage alcohol violation, and an alcohol general; violation of public law (public urination). The appellant did disclose that on September 10, 2010 as a 14-year-old, he was charged with possession of CDS marijuana 50 grams or less (juvenile delinquency).

On appeal, the appellant presents that he had only one week to complete his employment application. He indicates that he disclosed the information concerning his arrest for possession of marijuana at age 14 in 2010 on his application. Regarding the motor vehicle violations, the appellant notes that two of the violations occurred after the subject examination closing date and after he completed his employment application. He complains that the application did not provide any procedure for updating an application once it was submitted. The appellant explains that he did not immediately reach out to the appointing authority to disclose these two motor vehicle violations because he knew he would have a chance to disclose them during the background investigation, which he did. With respect to the 2015 safety glass violation, he indicates that he did not recall this violation as it did not result in any points. In regard to his conduct violations while attending college, the appellant reiterates that he only had one week to complete his application and could not locate all the paperwork nor remember the details concerning these violations. Therefore, he initially decided to leave the information blank on his application and he was planning on going back to it when he found the paperwork along with information needed to complete other requests. However, when the appellant went back to complete his application, it was an oversight on his part that he failed to complete requested information about his college discipline. He emphasizes that he authorized the appointing authority to research his background which led to it discovering omissions. The appellant asserts that he has spoken to police officers, so he was aware of the ramifications for omitting information. Therefore, he argues that he did not intentionally omit the requested information as he understood the consequences of an incomplete application.

The appellant highlights that he is a college graduate, he received a partial academic scholarship and is responsible for paying off student loans for the remainder owed, he played college baseball, he worked during his time off from college including umpiring recreational softball and baseball games for Hoboken recreation leagues, worked at a basketball camp in Hoboken, and he was employed by Hoboken Medical Transportation where he transported seniors. Additionally, he has volunteered for various youth sports camps and as a coach and participated in Hoboken Fire Department charity events. Currently, he is employed as a busboy for a restaurant, which provides him money to pay rent and other expenses to his grandmother who he lives with in Hoboken. The appellant presents references he received from a Hoboken Fire Department Captain, a Hoboken Fire Department Battalion Chief, a Secaucus Police Officer who was his former teacher and coach, and an Executive Director of the Hoboken Housing Authority.

The appellant presents a case that involved a Civil Service matter which indicated that falsification was defined as “an intentional misstatement of material fact in connection with work, attendance, record, report and investigation...” The appellant also submits other cases that stand for the proposition that to sustain a falsification charge the appellant must knowingly provide wrong information with

the intent to deceive. The appellant argues that as the safety glass violation did not carry any points and he disclosed his juvenile arrest which was more serious, his statement that he failed to remember the 2015 violation is credible. Concerning the motor vehicle violations that occurred after he submitted his application, he reiterates that there were no instructions or procedures to update his application regarding these violations and he did inform the appointing authority at the first chance that he had during the background investigation. With respect to the college violations, the appellant states that there is no Civil Service Commission (Commission) precedent that such violations are material to the position of a police officer. Further, he asserts that his statement that it was an oversight that he skipped the question concerning his college discipline is credible considering the information and documentation that he did disclose. He reiterates that he signed authorizations that enabled the appointing authority to discover any unintentional omissions from his application. Additionally, the appellant cites a prior Commission decision where the Commission restored to the list a candidate for a law enforcement position who had been charged with possession of marijuana at age 19. The appellant argues that his case is even stronger as he was only 14 at the time of the charge and the incident was a decade old. Moreover, the appellant cites another Commission decision where a candidate for a law enforcement position, who four and a half years earlier filed a false report that his vehicle was stolen, had his name restored to the list based on sufficient rehabilitation. The appellant argues that his case is even more compelling as his juvenile charges occurred a decade ago and his earning his college degree and exemplary employment history demonstrates sufficient rehabilitation.

In response, the appointing authority, represented by Alyssa Bongiovanni, Assistant Corporation Counsel, presents that the appellant indicated on his application that he never received a motor vehicle violation. However, its investigation revealed a 2015 safety glass requirement violation. Further, after submitting his application, the appellant received an improper use of cell phone and a failure to wear a seatbelt violation on August 31, 2018, but did not make any attempt to amend his application. Additionally, the appointing authority indicates that the appellant's application cited a 2010 arrest for juvenile delinquency, but indicated there was "No Charge" "No Final Charge" "No Court disposition or sentence" and did not list the police agency concerned. However, police records indicate that he was charged with possession of CDC Marijuana in the amount of 50 grams. Moreover, he did not list his college discipline as asked and the investigation revealed seven disciplinary actions while in college. The appointing authority states that the primary issue is whether the appellant's omission is material and it is clear that leaving out a criminal charge for marijuana possession, a drug offense, is material to a law enforcement position, even if the incident took place as a juvenile. Additionally, in response to questions concerning motor vehicle violations and college discipline, he responded by writing "No" or "N/A," which constitute false information as he had three traffic violations and seven college disciplinary infractions.

Therefore, the appointing authority argues that the appellant lacks the good character needed to be a Police Officer. Further, it argues that even if the appellant's reasons for omitting information are accepted, his conduct shows a lack of diligence, thoroughness and attention to detail to be a Police Officer.

In reply, the appellant reiterates that there is no evidence that he attempted to intentionally deceive the appointing authority. Additionally, he was unaware of any instructions on how to update the appointing authority concerning any motor vehicle violations that occurred after he submitted his application and he planned on updating it during the background investigation, which he did. Further, the appellant did provide sufficient information concerning the juvenile arrest. The appellant presents that the appointing authority is trying to recharacterize its reasons for removal as "drug offenses" and "traffic violations" and such shift should not be accepted.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)6, allows the removal of an eligible's name from an employment list when he or she has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process.

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows the Commission to remove an eligible's name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for appointment. Additionally, the Commission, in its discretion, has the authority to remove candidates from lists for law enforcement titles based on their driving records since certain motor vehicle infractions reflect a disregard for the law and are incompatible with the duties of a law enforcement officer. *See In the Matter of Pedro Rosado v. City of Newark*, Docket No. A-4129-01T1 (App. Div. June 6, 2003); *In the Matter of Yolanda Colson*, Docket No. A-5590-00T3 (App. Div. June 6, 2002); *Brendan W. Joy v. City of Bayonne Police Department*, Docket No. A-6940-96TE (App. Div. June 19, 1998).

It is well established that municipal police departments may maintain records pertaining to juvenile arrests, provided that they are available only to other law enforcement and related agencies, because such records are necessary to the proper and effective functioning of a police department. *Dugan v. Police Department, City of Camden*, 112 *N.J. Super.* 482 (App. Div. 1970), *cert. denied*, 58 *N.J.* 436 (1971). Thus, the appellant's juvenile arrest records were properly disclosed to the appointing authority, a municipal police department, when requested for purposes of making a hiring decision. However, *N.J.S.A.* 2A:4A-48 provides that a conviction for juvenile delinquency does not give rise to any disability or legal disadvantage that a conviction

of a “crime” engenders. Accordingly, the disability arising under *N.J.A.C.* 4A:4-4.7(a)4 as a result of having a criminal conviction has no applicability in the instant appeal. However, while an arrest is not an admission of guilt, it may warrant removal of an eligible’s name where the arrest adversely relates to the employment sought. *See In the Matter of Tracey Shimonis*, Docket No. A-3963-01T3 (App. Div. October 9, 2003).

N.J.A.C. 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority’s decision to remove his or her name from an eligible list was in error.

In this matter, the appointing authority had a valid reason for removing the appellant’s name from the list. A review of the record indicates that the appellant was charged with possession of CDS marijuana 50 grams or less (juvenile delinquency) on September 10, 2010 as a 14-year-old, on October 2, 2015 received a college conduct violation of campus housing regulations (prohibited appliance), on November 24, 2015 received a college conduct underage alcohol; violation of campus housing regulations, on December 18, 2015 received a safety glass requirement motor vehicle violation, on February 7, 2016 received a college conduct alcohol general; guest policy violation, on March 10, 2016 received a college conduct damage/vandalism (door lock) violation, on May 12, 2016 received a college conduct improper check out violation, on September 4, 2016 received a college conduct alcohol general; underage alcohol violation, on September 14, 2016 received a college conduct an alcohol general; violation of public law (public urination), and on August 31, 2018 received motor vehicle violations for Improper Use of a Cellular Phone and Failure to Wear Seatbelt. In other words, the record indicates that the appellant has a continuous history of negative interactions with authority, particularly from October 2015 through August 2018, which includes incidents after the closing date. It is also noted that while many of these negative interactions were with his college, some of these incidents involved illegal activity such as underage drinking and public urination. The record further indicates that the appellant failed to disclose the 2015 safety glass requirement motor vehicle violation and all of the college conduct charges.

On appeal, the appellant explains why these omissions were not intentional. However, the Appellate Division of the New Jersey Superior Court, in *In the Matter of Nicholas D’Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003), affirmed the removal of a candidate’s name based on his falsification of his employment application and noted that the primary inquiry in such a case is whether the candidate withheld information that was material to the position sought, not whether there was any intent to deceive on the part of the applicant. Therefore, even if there was no intent to deceive, in light of the appellant’s history of negative interactions with law enforcement and his college, his failure to disclose his complete driving history and college conduct violations was material. At minimum, the

appointing authority needed this information to have a complete understanding of his background in order to properly evaluate his candidacy. *See In the Matter of Dennis Feliciano, Jr.* (CSC, decided February 22, 2017). With respect to the appellant's arguments that he did not recall the safety glass requirement violation because it did not involve points and the omission of the college conduct violations were an unintentional oversight, candidates are responsible for the accuracy of their applications. *See In the Matter of Harry Hunter* (MSB, decided December 1, 2004). Further, signing a release that authorized the appointing authority to conduct a background investigation which revealed incidents that the appellant did not disclose did not relieve him of his obligation to submit a complete and accurate background. In reference to his claim that he did not falsify his application because there were no specific instructions about updating an already completed application, since the appellant knew the appointing authority asked about past incidents, common sense dictates that the appellant should have known to immediately contact the appointing authority to explain incidents which took place after he submitted his application and waiting for the background investigation to advise of the infractions was insufficient. Regardless, the Commission has the authority to consider these post-application violations, and, as previously stated, has found them to be part of a continuing pattern of problematic conduct by the appellant.

Thus, the Commission finds that the appellant's continuous negative interactions with his college and the law indicates that he currently lacks the judgment and background to be a Police Officer. In this regard, it is recognized that a municipal Police Officer is a law enforcement employee who must enforce and promote adherence within to the law. Municipal Police Officers hold highly visible and sensitive positions within the community and that the standard for an applicant includes good character and an image of the utmost confidence and trust. It must be recognized that a municipal Police Office is a special kind of employee. His primary duty is to enforce and uphold the law. He carries a service revolver on his person and is constantly called upon to exercise tact, restraint and good judgment in his relationship with the public. He represents law and order to the citizenry and must present an image of personal integrity and dependability in order to have the respect of the public. *See Moorestown v. Armstrong*, 89 N.J. Super. 560, 566 (App. Div. 1965), *cert. denied*, 47 N.J. 80 (1966). *See also In re Phillips*, 117 N.J. 567 (1990). Moreover, as these incidents, except for the juvenile offense, took place either shortly before the August 31, 2016 closing date or after the closing date, there has been insufficient time for the appellant to demonstrate rehabilitation.

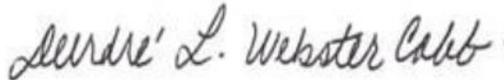
Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the Police Officer (S9999U), Hoboken eligible list.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 31st DAY OF JULY, 2019



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